



DAN MORALES
ATTORNEY GENERAL

Office of the Attorney General
State of Texas

September 12, 1991

Mr. Richard D. Monroe
Office of General Counsel
State Department of Highways
and Public Transportation
125 East 11th Street
Austin, Texas 78701-2483

OR91-410

Dear Mr. Monroe:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 13145.

You have received a request for a copy of a report prepared by an outside consultant and presented to your Department on July 15, 1991, which relates to specific bird surveys associated with the planned construction of a state highway. You claim that the material requested is protected from required public disclosure by section 3(a)(5) of the Open Records Act which excepts:

information pertaining to the location of real or personal property for public purposes prior to public announcement of the project, and information pertaining to appraisals or purchase price of real or personal property for public purposes prior to the formal award of contracts therefor.

We have considered the claimed exception and have reviewed the documents submitted. Previous open records decisions issued by this office resolve your request. Section 3(a)(5) was designed to protect a governmental body's planning and negotiating position with respect to particular transactions. Open Records Decision No. 564 (1990) (a copy of which is enclosed). Section 3(a)(5) applies to information regarding appraisals or purchase price, not merely to particular appraisal reports prepared for specific properties. *Id.* at 2. We agree that Tables 1,

2, and 3 and the attached map which pertain to bird surveys on specific sites, if disclosed, would be harmful to the governmental body's future negotiating position. They may be withheld in their entirety. The report titled "Endangered Species Investigation," however, contains general, nonsite specific information and therefore may not be withheld under section 3(a)(5).

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-410.

Very truly yours,



Mary R. Crouter
Assistant Attorney General
Opinion Committee

MRC/GCK/mc

Enclosure: Open Records Decision No. 564

Ref.: ID# 13145

cc: Mr. Robert J. Bodet
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